IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 32 (MS) OF 2002

1. Bishan Lal,
2. Lila Ram,
3. Dehi Lal,

All S/o Late Jasi Ram, R/o Village Pakhura Patti Kandarkhuwa, Tehsil Ranikhet, District-Almora.

.....Petitioners.

Versus

1. State of Uttaranchal, through Collector District Almora.
2. Addl. Commissioner, Kumaun Division, Nainital.
3. Sub Divisional Magistrate/Assistant Collector (1st Class) Ranikhet, District Almora.
4. Shri Mohan Ram,
5. Shri Bal Kishan,

Both son of late Ganga Ram, R/o Village –Pankhura Patti Kandarkhuwa, Tehsil-Ranikhet, District- Almora .

.....Respondents.

Sri B.D. Upadhyay, Advocate for the petitioner.
Learned Standing Counsel for the respondent no. 1.

05.05.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order dated 29th November, 2001 passed by the respondent no. 2 (Annexure No. 1 to the writ petition).

Briefly stated, the petitioners moved an application before the respondent no. 3 for correction of mistakes in the annual register on 13th May, 2000 and the same was registered as Land Revenue Case no. 9/99-2000. The Tehsildar has allowed the application on 30.03.2001 and directed that the revenue record may be corrected accordingly.

Being aggrieved, the respondents no. 5 and 6 filed a revision No. 90/40 of 2000-2001 before the Commissioner Kumaon Division, which was later on transferred to the respondent no. 2 under section 219 of U.P.L.R. Act. The respondent no. 2 vide order dated 29.11.2001 has set aside the order dated 30.03.2001 passed by the respondents no. 3 and thereby allowed the revision of the respondents no. 5 and 6. Present Writ Petition has been filed against the said order.

A counter affidavit has been filed where a copy of the plaint has been annexed, where it has been stated that the petitioner has already availed the alternative remedy by filing the suit.

In view of the aforesaid facts and circumstances, writ petition has become infructuous. It is settled law that proceedings under the revenue Act, being the summary in nature and the same can be challenged in the regular proceedinsgs. Further, the petitioner having already availed the remedy of filing a suit and therefore, the writ petition has become infructuous. However, any finding recorded in summary proceedings shall not bind the revenue Court in the regular proceedings.

Writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

05.05.2006
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